



General Assembly

February Session, 2014

Raised Bill No. 318

LCO No. 1825



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

***AN ACT CONCERNING ELECTRONIC PREVAILING WAGE NOTICES,
INFORMATION AND RECORDS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-53 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2014*):

4 (a) Each contract for the construction, remodeling, refinishing,
5 refurbishing, rehabilitation, alteration or repair of any public works
6 project by the state or any of its agents, or by any political subdivision
7 of the state or any of its agents, shall contain the following provision:
8 "The wages paid on an hourly basis to any person performing the
9 work of any mechanic, laborer or worker on the work herein
10 contracted to be done and the amount of payment or contribution paid
11 or payable on behalf of each such person to any employee welfare
12 fund, as defined in subsection (i) of this section, shall be at a rate equal
13 to the rate customary or prevailing for the same work in the same
14 trade or occupation in the town in which such public works project is
15 being constructed. Any contractor who is not obligated by agreement

16 to make payment or contribution on behalf of such persons to any such
17 employee welfare fund shall pay to each mechanic, laborer or worker
18 as part of such person's wages the amount of payment or contribution
19 for such person's classification on each pay day."

20 (b) Any contractor or subcontractor who knowingly or wilfully
21 employs any mechanic, laborer or worker in the construction,
22 remodeling, refinishing, refurbishing, rehabilitation, alteration or
23 repair of any public works project for or on behalf of the state or any of
24 its agents, or any political subdivision of the state or any of its agents,
25 at a rate of wage on an hourly basis that is less than the rate customary
26 or prevailing for the same work in the same trade or occupation in the
27 town in which such public works project is being constructed,
28 remodeled, refinished, refurbished, rehabilitated, altered or repaired,
29 or who fails to pay the amount of payment or contributions paid or
30 payable on behalf of each such person to any employee welfare fund,
31 or in lieu thereof to the person, as provided by subsection (a) of this
32 section, shall be fined not less than two thousand five hundred dollars
33 but not more than five thousand dollars for each offense and (1) for the
34 first violation, shall be disqualified from bidding on contracts with the
35 state or any political subdivision until the contractor or subcontractor
36 has made full restitution of the back wages owed to such persons and
37 for an additional six months thereafter, and (2) for subsequent
38 violations, shall be disqualified from bidding on contracts with the
39 state or any political subdivision until the contractor or subcontractor
40 has made full restitution of the back wages owed to such persons and
41 for not less than an additional two years thereafter. In addition, if it is
42 found by the contracting officer representing the state or political
43 subdivision of the state that any mechanic, laborer or worker
44 employed by the contractor or any subcontractor directly on the site
45 for the work covered by the contract has been or is being paid a rate of
46 wages less than the rate of wages required by the contract to be paid as
47 required by this section, the state or contracting political subdivision of
48 the state may (A) by written or electronic notice to the contractor,

49 terminate such contractor's right to proceed with the work or such part
50 of the work as to which there has been a failure to pay said required
51 wages and to prosecute the work to completion by contract or
52 otherwise, and the contractor and the contractor's sureties shall be
53 liable to the state or the contracting political subdivision for any excess
54 costs occasioned the state or the contracting political subdivision
55 thereby, or (B) withhold payment of money to the contractor or
56 subcontractor. The contracting department of the state or the political
57 subdivision of the state shall, not later than two days after taking such
58 action, notify the Labor Commissioner, in writing or electronically, of
59 the name of the contractor or subcontractor, the project involved, the
60 location of the work, the violations involved, the date the contract was
61 terminated, and steps taken to collect the required wages.

62 (c) The Labor Commissioner may make complaint to the proper
63 prosecuting authorities for the violation of any provision of subsection
64 (b) of this section.

65 (d) For the purpose of predetermining the prevailing rate of wage
66 on an hourly basis and the amount of payment or contributions paid or
67 payable on behalf of each person to any employee welfare fund, as
68 defined in subsection (i) of this section, in each town where such
69 contract is to be performed, the Labor Commissioner shall (1) hold a
70 hearing at any required time to determine the prevailing rate of wages
71 on an hourly basis and the amount of payment or contributions paid or
72 payable on behalf of each person to any employee welfare fund, as
73 defined in subsection (i) of this section, upon any public work within
74 any specified area, and shall establish classifications of skilled,
75 semiskilled and ordinary labor, or (2) adopt and use such appropriate
76 and applicable prevailing wage rate determinations as have been made
77 by the Secretary of Labor of the United States under the provisions of
78 the Davis-Bacon Act, as amended.

79 (e) The Labor Commissioner shall determine the prevailing rate of
80 wages on an hourly basis and the amount of payment or contributions

81 paid or payable on behalf of such person to any employee welfare
82 fund, as defined in subsection (i) of this section, in each locality where
83 any such public work is to be constructed, and the shall make such
84 information available in an electronic format on the Labor
85 Department's Internet web site. The agent empowered to let such
86 contract shall contact the Labor Commissioner, in writing or
87 electronically through the Labor Department's Internet web site, at
88 least ten but not more than twenty days prior to the date such
89 contracts will be advertised for bid, to ascertain the proper rate of
90 wages and amount of employee welfare fund payments or
91 contributions and shall include such rate of wage on an hourly basis
92 and the amount of payment or contributions paid or payable on behalf
93 of each person to any employee welfare fund, as defined in subsection
94 (i) of this section, or in lieu thereof the amount to be paid directly to
95 each person for such payment or contributions as provided in
96 subsection (a) of this section for all classifications of labor in the
97 proposal for the contract. The rate of wage on an hourly basis and the
98 amount of payment or contributions to any employee welfare fund, as
99 defined in subsection (i) of this section, or cash in lieu thereof, as
100 provided in subsection (a) of this section, shall, at all times, be
101 considered as the minimum rate for the classification for which it was
102 established. Prior to the award of any contract subject to the provisions
103 of this section, such agent shall certify [in writing] to the Labor
104 Commissioner, either in writing or electronically through the Labor
105 Department's Internet web site, the total dollar amount of work to be
106 done in connection with such public works project, regardless of
107 whether such project consists of one or more contracts. Upon the
108 award of any contract subject to the provisions of this section, the
109 contractor to whom such contract is awarded shall certify, under oath,
110 to the Labor Commissioner the pay scale to be used by such contractor
111 and any of the contractor's subcontractors for work to be performed
112 under such contract.

113 (f) Each employer subject to the provisions of this section or section

114 31-54 shall (1) keep, maintain and preserve such records relating to the
115 wages and hours worked by each person performing the work of any
116 mechanic, laborer and worker and a schedule of the occupation or
117 work classification at which each person performing the work of any
118 mechanic, laborer or worker on the project is employed during each
119 work day and week in such manner and form as the Labor
120 Commissioner establishes to assure the proper payments due to such
121 persons or employee welfare funds under this section or section 31-54,
122 regardless of any contractual relationship alleged to exist between the
123 contractor and such person, provided such employer shall have the
124 option of keeping, maintaining and preserving such records in an
125 electronic format, and (2) submit monthly to the contracting agency by
126 mail, electronic mail or other method accepted by such agency, a
127 certified payroll that shall consist of a complete copy of such records
128 accompanied by an original statement signed by the employer that
129 indicates (A) such records are correct; (B) the rate of wages paid to
130 each person performing the work of any mechanic, laborer or worker
131 and the amount of payment or contributions paid or payable on behalf
132 of each such person to any employee welfare fund, as defined in
133 subsection (i) of this section, are not less than the prevailing rate of
134 wages and the amount of payment or contributions paid or payable on
135 behalf of each such person to any employee welfare fund, as
136 determined by the Labor Commissioner pursuant to subsection (d) of
137 this section, and not less than those required by the contract to be paid;
138 (C) the employer has complied with the provisions of this section and
139 section 31-54; (D) each such person is covered by a workers'
140 compensation insurance policy for the duration of such person's
141 employment, which shall be demonstrated by submitting, either
142 electronically or in writing, to the contracting agency the name of the
143 workers' compensation insurance carrier covering each such person,
144 the effective and expiration dates of each policy and each policy
145 number; (E) the employer does not receive kickbacks, as defined in 41
146 USC 52, from any employee or employee welfare fund; and (F)
147 pursuant to the provisions of section 53a-157a, the employer is aware

148 that filing a certified payroll which the employer knows to be false is a
149 class D felony for which the employer may be fined up to five
150 thousand dollars, imprisoned for up to five years, or both. This
151 subsection shall not be construed to prohibit a general contractor from
152 relying on the certification of a lower tier subcontractor, provided the
153 general contractor shall not be exempted from the provisions of section
154 53a-157a if the general contractor knowingly relies upon a
155 subcontractor's false certification. Notwithstanding the provisions of
156 section 1-210, the certified payroll shall be considered a public record
157 and every person shall have the right to inspect and copy such records
158 in accordance with the provisions of section 1-212. The provisions of
159 subsections (a) and (b) of section 31-59 and sections 31-66 and 31-69
160 that are not inconsistent with the provisions of this section or section
161 31-54 apply to this section. Failing to file a certified payroll pursuant to
162 subdivision (2) of this subsection is a class D felony for which the
163 employer may be fined up to five thousand dollars, imprisoned for up
164 to five years, or both.

165 (g) Any contractor who is required by the Labor Department to
166 make any payment as a result of a subcontractor's failure to pay wages
167 or benefits, or any subcontractor who is required by the Labor
168 Department to make any payment as a result of a lower tier
169 subcontractor's failure to pay wages or benefits, may bring a civil
170 action in the Superior Court to recover no more than the damages
171 sustained by reason of making such payment, together with costs and
172 a reasonable attorney's fee.

173 (h) The provisions of this section do not apply where the total cost
174 of all work to be performed by all contractors and subcontractors in
175 connection with new construction of any public works project is less
176 than four hundred thousand dollars or where the total cost of all work
177 to be performed by all contractors and subcontractors in connection
178 with any remodeling, refinishing, refurbishing, rehabilitation,
179 alteration or repair of any public works project is less than one
180 hundred thousand dollars.

181 (i) As used in this section and section 31-54, "employee welfare
182 fund" means any trust fund established by one or more employers and
183 one or more labor organizations or one or more other third parties not
184 affiliated with the employers to provide from moneys in the fund,
185 whether through the purchase of insurance or annuity contracts or
186 otherwise, benefits under an employee welfare plan; provided such
187 term shall not include any such fund where the trustee, or all of the
188 trustees, are subject to supervision by the Banking Commissioner of
189 this state or any other state or the Comptroller of the Currency of the
190 United States or the Board of Governors of the Federal Reserve System,
191 and "benefits under an employee welfare plan" means one or more
192 benefits or services under any plan established or maintained for
193 persons performing the work of any mechanics, laborers or workers or
194 their families or dependents, or for both, including, but not limited to,
195 medical, surgical or hospital care benefits; benefits in the event of
196 sickness, accident, disability or death; benefits in the event of
197 unemployment, or retirement benefits.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2014</i>	31-53
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Statement of Purpose:

To permit certain prevailing wage notices, information and records to be provided or maintained electronically.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]